

Docket No.: 27592-01101-US1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Makoto Izawa et al.

Application No.: 10/710,987

Confirmation No.: 4986

Filed: August 16, 2004

Art Unit: 2437

For: Centralized Encryption Management System

Examiner: Shewaye Gelagay

REPLY BRIEF

MS Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This reply brief is filed in response to an Examiner's Answer mailed August 13, 2010. Applicants believe that no fees are required in conjunction with this submission. However, should any further fees be due, Applicants authorize such fees to be charged to Deposit Account No. 22-0185, under Order No. 27592-01101-US1, from which the undersigned is authorized to draw.

This reply brief contains items under the following headings as required by M.P.E.P. § 1208, which begin on the pages as indicated:

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I. STATUS OF CLAIMS

A. Total Number of Claims in Application

There are 17 claims pending in this application.

B. Current Status of Claims

1. Claims canceled: 3

2. Claims withdrawn from consideration but not canceled: None

3. Claims pending: 1, 2, 4-18

4. Claims allowed: None

5. Claims rejected: 1, 2, 4-18

C. Claims On Appeal

The claims on appeal are Claims 1, 2, and 4-18.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-2, 4-9 and 12-18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,604,807 to Yamaguchi et al. (hereinafter “Yamaguchi et al.”) in view of “Transparent Network Security Policy Enforcement,” USENIX 2000 (hereinafter “Keromytis et al.”) and in view of U.S. Patent No. 6,775,769 to Inada et al. (hereinafter “Inada et al.”) and in view of U.S. Patent No. 6,415,031 to Colligan et al. (hereinafter “Colligan et al.”).

Claims 10-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Yamaguchi et al., in view of Keromytis et al. and in view of Inada et al. and in view of Colligan et al., and in view of U.S. Patent No. 5,481,610 to Doiron et al. (hereinafter “Doiron et al.”).

III. ARGUMENTS

Applicants respectfully maintain the arguments presented in their Appeal Brief filed on June 2, 2010. Applicants would also like to address some statements made in the “Response to Arguments” section of the Examiner’s Answer mailed on August 13, 2010.

Applicants initially note that the Examiner’s Answer continues to lack any teachings or suggestions of a manager terminal providing “information including whether or not data packets are to be discarded between specific communications terminals after the data packets have been received,” as discussed in Applicants’ Appeal Brief. Appeal Brief at 9 ff. The Examiner’s Answer attempts to rebut Applicants assertion to this end in several ways. First, noting page 11 of the Examiner’s Answer, the Examiner’s Answer attempts to argue that the mere recitation in the Inada et al. reference of a filter, such as the ciphertext output filter, is sufficient to teach that “information including whether or not data packets are to be discarded between specific communications terminals after the data packets have been received” must be provided in Inada et al. Examiner’s Answer at 11. However, Applicants note that ***nowhere in Inada et al. is it taught that the ciphertext output filter, or any other such filter, is controlled.*** Hence, the mere presence of such a filter is insufficient to teach that it receives any type of control information from any source.

The Examiner’s Answer also continues to attempt to argue that the mere mention of a “management packet” in Inada et al. is sufficient to teach or suggest the presence of a management terminal. Examiner’s Answer at 12. Applicants have previously noted that this is not true; in a distributed network, there may be no management terminal, *per se*. Appeal Brief at 11-12. The Examiner’s Answer attempts to avoid this argument by stating that “the terminal that sends the ‘management packet[,]’ whether among peers or centralized[,] is considered the ‘manager terminal.’” Examiner’s Answer at 12. However, the flaw in this logic is that, in a network having distributed control, *none* of the terminals has the role of “manager terminal;” this is the point of such a distributed system. Instead, typically in such a system, each terminal receives information from other terminals (often, peers located nearby) and makes its own control decisions based on a control algorithm (this may have advantages, such as reduced network control traffic).

Finally, although Applicants have presented arguments relating to the individual references, these arguments are directed to showing the flaws that exist even when the teachings of the references are combined. This is clear from the fact that Applicants' Appeal Brief includes mention of all of the references other than the particular reference (e.g., Inada et al. or Colligan et al.) and how they were applied in the Office Action (and discussed as lacking various features). In other words, Applicants have addressed, not only the individual references, but their combination, as well.

Applicants also note that the citations of *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 198) and *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986) are irrelevant to the present circumstances, noting that these references address the case in which one attempts to attack a single reference when one is aware that the teachings upon which such attack is based may be found in a different cited reference. In other words, the courts, in these opinions, are warning against subterfuge, and do not categorically forbid attacking a particular reference when it is believed/understood that the reference being attacked is the only cited reference upon which reliance is placed for a particular claim element (as is the present case).

Therefore, Applicants continue to maintain that all claims on appeal are allowable over the cited references.

Dated: October 7, 2010

Respectfully submitted,

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